



**DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of: )  
)  
) ISCR Case No. 11-05997  
)  
)  
Applicant for Security Clearance )

**Appearances**

For Government: David F. Hayes, Esq., Department Counsel  
For Applicant: *Pro se*

08/16/2012

**Decision**

MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant owes around \$18,568 in past-due debt that was incurred by her spouse using her credit without her knowledge. Recent changes to ensure that he no longer abuses her credit are significant steps in reform, and she is making payment on her known consumer credit card debt. Clearance granted.

**Statement of the Case**

On March 30, 2012, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to Applicant, detailing the security concerns under Guideline F, Financial Considerations, and explaining why it was unable to find it clearly consistent with the national interest to grant or continue her security clearance eligibility. DOHA took the action under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as

amended (Directive); and the adjudicative guidelines (AG) effective within the Department of Defense on September 1, 2006.

Applicant submitted an undated Answer to the SOR allegations, in which she did not indicate whether she wanted a hearing. On May 11, 2012, Applicant filed a new Answer to the SOR, and she requested a hearing. On June 6, 2012, the case was assigned to me to conduct a hearing to consider whether it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. On June 7, 2012, I scheduled a hearing for June 26, 2012.

I convened the hearing as scheduled. Six Government exhibits (GEs 1-6) and two Applicant exhibits (AEs A-B) were admitted in evidence. Applicant and her sister also testified, as reflected in a transcript (Tr.) received on July 5, 2012. The record was held open until July 17, 2012, for Applicant to submit additional documents. On July 11, 2012, Applicant forwarded ten exhibits, which were marked as AEs C through L. On July 19, 2012, I provided copies to the Government for review and possible objection. The Government filed no response by the July 30, 2012 due-date, and I accepted the exhibits in the record.

### **Findings of Fact**

The SOR alleges under Guideline F that as of March 30, 2012, Applicant owed three delinquent debts totaling \$45,041: \$26,168 (SOR 1.a), \$577 (SOR 1.b), and \$18,296 (SOR 1.c). In her response of May 11, 2012, Applicant denied the debts in SOR 1.a and 1.c, indicating that her spouse was responsible and she knew nothing about them. She admitted the debt in SOR 1.b, and indicated that the debt should have been settled when she refinanced a few years ago. After considering the pleadings, exhibits, and transcript, I make the following findings of fact.

Applicant is a 52-year-old inspector, who has worked for the same defense contractor for the past 33 years. (GE 1; Tr. 63.) Applicant holds a confidential security clearance, which was granted in April 1996. She held a secret clearance in the past at another facility. (Tr. 14.) Since September 2004, she has also held part-time employment as a certified nurse assistant. (GE 1.) Applicant works her second job every other weekend and as needed. (Tr. 62, 64.)

Applicant married her spouse in September 1986. They have a daughter age 25 and son age 22. Their son is still living at home. (Tr. 64.) Her spouse had three children from a previous relationship, who are now in their 40s. (GE 1.) Applicant has been the primary wage earner for the household since they married. (Tr. 45.) Her spouse worked as a mechanic until shortly after their marriage. He then worked in building maintenance, but his income was insufficient to cover the household expenses. (Tr. 44-45.) Around September 1987, Applicant and her spouse bought their present residence. To pay for roof repairs and credit card debt, they refinanced their mortgage a few times and took out a home equity loan. In February 2003, they took out a \$150,000 mortgage loan that was late 30 days five times before they refinanced with a fixed rate loan from their present lender in April 2006.

(Tr. 97.) Their \$160,000 mortgage loan has been 30 days past due six or more times as of July 2010. (GE 4.)

Since 1997, Applicant's spouse has been treated by a licensed psychologist for diagnosed bipolar disorder, manic type. (AEs B, E; Tr. 72.) He collected a social security disability benefit for around four years. (Tr. 90.) During acute flare-ups of his mental illness, Applicant's spouse overspent, gambled excessively, and ran up debt on some of her credit card accounts without her knowledge when she was at work. He also wiped out their checking account. At some point, Applicant went to the bank about it ("the people knew him at the bank.") (GEs 2, 5; AE D; Tr. 35-36, 62.) Applicant had consumer credit debt of her own, although she made her payments on time for the most part. Of the more than 30 consumer credit card accounts that have been opened in her name (GE 4), Applicant believes her spouse stole a credit card from her purse, and that he could have forged her name to open another account. (Tr. 92.)

Around 2010, Applicant was refused a loan by the local bank where she and her spouse had a checking account. (Tr. 76.) Applicant presumed it was because her spouse had ruined her credit. She had been advised by her sister, starting about 15 years ago (Tr. 35-36), to monitor her credit reports; to open a post office box to keep her spouse from opening new credit card accounts in her name; and to obtain her own checking account so that her spouse would no longer have access to her money. (Tr. 48.) Applicant relied on her spouse's promises that he would no longer fraudulently sign her name on charge cards. (Tr. 42, 77-78.)

Several of Applicant's credit card accounts had been paid off and closed by January 2011. (GE 4.) On an Electronic Questionnaire for Investigations Processing (e-QIP) dated January 20, 2011, Applicant responded affirmatively to question 26.g, "Have you had bills or debts turned over to a collection agency?" She listed only one debt, of \$45 to a telecommunications company, which had been paid in full. Applicant added the following comments:

In April 2007 I was informed that someone used my credit card account number [xxxx-xxxx-xxxx-3108]. [T]his was a [bank credit] card that was fraudulently used in my name. [T]housands of dollars were charged on this card. People keep calling my house about these charges that I did not make. I have told them many times that these were not my charges and I have refused to pay it.<sup>1</sup> (GE 1.)

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<sup>1</sup>Before the hearing, Applicant's spouse provided her with statements from January 2007 through April 2007 for the account ending in #3108. She indicated that her spouse had used her account without her knowledge. The account statements reflect that the credit card account, issued in Applicant's name, was used for cash advances, baseball tickets, a veterinary bill, and for purchases at local retailers, including grocery stores, gas stations, a pharmacy, auto parts stores, and a liquor store. As of April 2007, the outstanding balance on the account was \$7,361.46. (AE A.) At her hearing, Applicant admitted that the "someone" referenced on her e-QIP was her spouse. (Tr. 116.) The account number does not match that of the account held by the assignee in SOR 1.c. Yet, it is administratively noticed that the original credit card issuer for account #2309 covered in SOR 1.c was bought out in January 2006 by the bank that issued the account ending in #3108. The bank may have issued a new credit card when it took over the previous lender's account, although Applicant had three

As of late January 2011, the credit bureaus were reporting the credit card account ending in #3108 as a lost or stolen credit card with a zero balance as of April 2007. The same lender reportedly had placed a \$12,200 balance on another account for collection around July 2006. Also, an assignee was claiming a \$26,168 collection balance on an account originally placed for \$14,646 in February 2009 (SOR 1.a). A credit card account on which Applicant was an authorized user (SOR 1.b) was in collection as of April 2008 with a \$577 balance. Applicant's other credit cards were rated as current. She reportedly owed \$7,860 on ten accounts that were being repaid according to terms, including a \$2,161 disputed debt balance that was incurred on her account by her spouse. (Tr. 67.) Student loan debt totaling \$65,584 for her daughter's education was in deferment. (GE 4.) Applicant deferred repayment for a year because of insufficient income. No overtime was available in her defense contractor job. (Tr. 65.)

On March 7, 2011, Applicant was interviewed by an investigator for the Office of Personnel Management (OPM) about the debt on her credit record. Applicant indicated that she did not incur the debt. (Tr. 106.)

Around December 2011, Applicant incurred about \$500 on a credit card account for holiday gifts. In February 2012, she consolidated the \$3,171 debt on that account with the \$1,911 balance incurred by her spouse on her account so that she could make one payment on a total balance around \$5,000. (GE 5; Tr. 67-68.) As of February 3, 2012, Applicant owed current credit card debt of \$8,791, including \$5,403 on the consolidated credit card account. She was making timely monthly payments on two new automobile loans taken out in August 2011 for \$24,302 and \$21,627. Her 1991 Jeep, which she paid for with a loan from her 401(k), was costing too much for fuel. She commutes 62 miles each way to her job with the defense contractor.<sup>2</sup> She bought a 2010 Impala for herself, and is repaying the loan at \$407.32 per month. (Tr. 87.) She co-signed on the other vehicle loan for her son, and he is making his \$382 monthly payments from his \$29,000 annual income. (Tr. 87, 107.) Applicant's student loan obligations had increased to \$68,728 while in deferment. Applicant was paying her mortgage on time, although she had been late in her \$1,363.86 monthly payment as recently as June 2011. Only one collection account was on her record, and it had an \$18,296 balance (SOR 1.c). (GE 5.)

In response to DOHA inquiries about the status of the collection debts on her credit record (\$26,168 and \$577 as of late January 2011, and \$18,296 as of early February 2012), Applicant indicated on February 21, 2012, that she had no knowledge about the \$26,168 debt (SOR 1.a). She speculated that the \$577 debt may be from an earlier mortgage refinancing (SOR 1.b). Also, Applicant indicated that she owed \$6,383.34 on the \$18,296 collection debt (SOR 1.c) for a "stolen + misused" card. The creditor agreed to settle the debt for \$6,383.34 on payment in a lump sum by January 31, 2012. Applicant did not make the payment (Tr. 79), although she provided DOHA with documentation of

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separate accounts with the same bank. Applicant's spouse admits that he ran up credit charges in her name that went delinquent.

<sup>2</sup>Applicant has been looking for a position at a facility closer to her home. (Tr. 111-112.)

payments on her car at \$407.32 per month, of the mortgage, of several credit card accounts, of \$555.26 per month on the student loans for her daughter's education, and of \$10.97 and \$84.55 per paycheck on two loans taken from her 401(k) at work. Applicant completed a Personal Financial Statement (PFS) on which she reported owing \$12,278.71 on seven consumer credit accounts on which she was making payments, including \$35 per month toward a \$1,050 balance owed a furniture retailer. (GE 2.)

As of May 29, 2012, Equifax Information Services reported \$9,153 in outstanding revolving charge debt on Applicant's credit record, although one debt was listed twice, with balances of \$977 and \$962. (GE 6.) Equifax reported an updated collection balance of \$18,568 (SOR 1.c). (GE 6.) Applicant and her spouse believe that this is one of the debts he incurred without her knowledge. He made payments for about a year or so until his disability income was reduced by \$300 per month, and he could no longer afford the payments. (AE D.)

As of June 2012, Applicant had made no payments on the debt in SOR 1.c, despite being aggressively pursued for collection. (AE I.) She does not have the funds to pay the lump sum required to settle the debt, and she did not want to make promises she could not fulfill. (Tr. 85.) She had not contacted the creditor identified in SOR 1.a or 1.b because she had no success in convincing collection agents that she had not incurred the debts. (Tr. 62, 69, 95.)

Applicant has opened a new checking account in her name only, although she cannot now remember when she opened the account. Her checks are inaccessible to her spouse. (Tr. 61.) She no longer trusts him to keep from abusing her credit or wiping out her checking account. (Tr. 78, 99.) Applicant keeps a few credit cards for clothing purchases and emergencies. (GE 6; Tr. 78.) Applicant's spouse, who drives a consumer auto parts truck part time (Tr. 90), gives her about \$500 from his pay and social security income that Applicant puts toward the cable and electric bills. (Tr. 62, 112-113.) The earnings from Applicant's second job as a certified nurse assistant go to pay the student loans for her daughter's education. (Tr. 113.) Applicant has about \$100 per month in discretionary income. (Tr. 111.)

At her hearing, Applicant expressed a willingness to file for bankruptcy to resolve the debt if necessary to keep her job with her longtime employer. (Tr. 85-86.) Applicant also indicated that she would obtain a post office box to guard against her spouse intercepting credit card solicitations received in the mail. She planned to contact the creditors identified in the SOR for information about the debts. She wants to clean up her credit record. (Tr. 108.)

As of July 11, 2012, Applicant had contacted the creditors. Regarding the \$26,168 debt that appears only on her January 2011 credit report (GE 4), Applicant was given two account numbers from its archives. One number does not match any of the accounts on her credit record. The other is the same number as the account covered by SOR 1.c.<sup>3</sup> The

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<sup>3</sup>Recent credit reports reflect that in February 2009, the assignee identified in SOR 1.a took over a debt that had a high credit of \$14,646. Applicant's spouse believes that due to interest (AE D), the balance on the

assignee had sold the debt. Concerning the debt in SOR 1.c, Applicant was unable to reach an acceptable settlement with the collection agent, who wanted \$8,000. (AEs C, I.) Around July 2, 2012, Applicant filed a dispute with the assignee over the balance of SOR 1.c. She requested proof that she is contractually obligated to pay the debt, although she also expressed a willingness to settle for a reasonable amount. (AE I.) As for the debt in SOR 1.b, Applicant was told by its collection agent that someone charged the purchase of four tires. Applicant denies that she bought the tires, and her spouse “will not own up to this one.” She disputes the debt and intends to file a dispute with the collection agency. Applicant plans to take out a loan from her 401(k) or refinance her mortgage to pay any debts that are verified once she has affordable repayment terms in place. Applicant also plans to place credit alerts on her credit record so that she is notified of any new consumer credit accounts in her name. (AE C.)

As of June 2012, Applicant’s spouse has been seeing his psychologist once a month. Applicant has talked with the psychologist, and joint counseling is being considered. (Tr. 102-103.)

### **Policies**

The U.S. Supreme Court has recognized the substantial discretion the Executive Branch has in regulating access to information pertaining to national security, emphasizing that “no one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are required to be considered in evaluating an applicant’s eligibility for access to classified information. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge’s overall adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the “whole-person concept.” The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that “[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of national security.” In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or

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account accrued to a reported \$26,168 as of January 2011. (GE 4.) However, when Applicant recently contacted the assignee, she was given two account numbers from the archives, one of which matches the account number of the collection debt reportedly held by the assignee in SOR 1.c. The account in SOR 1.c is the only collection debt on her credit record with Equifax as of 2012.

mitigate facts admitted by applicant or proven by Department Counsel. . . .” The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information. Section 7 of Executive Order 10865 provides that decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

## **Analysis**

### **Guideline F, Financial Considerations**

The security concerns for Financial Considerations are set out in AG ¶ 18:

Failure or inability to live within one’s means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual’s reliability, trustworthiness and ability to protect classified information. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds.

The Government alleged three unpaid delinquent debts totaling \$45,041. Applicant disputes the debts on the basis that she did not incur them.<sup>4</sup> The Government has the burden of establishing controverted debt by substantial evidence, which is “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all contrary evidence in the record.” ISCR Case No. 04-11463 at 2 (App. Bd. Aug. 4, 2006) (citing Directive ¶ E3.1.32.1).

The evidence falls short of proving that Applicant owes the \$26,168 debt alleged in SOR 1.a. As of January 2011, the assignee in SOR 1.a was reporting a \$26,168 balance on an account with high credit of \$14,646. In late June or early July 2012, Applicant was informed by the assignee identified in SOR 1.a that it no longer held the debt. She was given two credit card account numbers from its archives: one that does not appear on any of her credit reports in the record and the account covered by SOR 1.c (#2309). Applicant’s

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<sup>4</sup>Before her hearing, Applicant admitted the debt in SOR 1.b because she assumed it was from a loan refinancing. (GE 3.) On being informed from the creditor that the debt was incurred for tires, which she denies purchasing, Applicant is now contesting the debt. (AE C.)

spouse admits that he incurred debt in Applicant's name without her authorization, which due to interest "became \$26,000 or so." (AE D.) As of 2012, Equifax was reporting only one collection debt on Applicant's credit record (SOR 1.c). The account had a high credit of \$26,599 and balance of \$18,568 as of May 2012. The account information gleaned by Applicant after her hearing suggests that the creditor in SOR 1.a was a previous assignee of the debt in SOR 1.c. Recent credit reports from 2012 do not substantiate that Applicant owes a second collection debt, which if added to the balance of SOR 1.c, would have totaled around \$26,128 as of January 2011.<sup>5</sup>

Concerning the \$577 debt alleged in SOR 1.b, Applicant initially thought the debt was from an earlier mortgage refinancing. The latest information about SOR 1.b is that the debt was for tires. Neither Applicant nor her spouse admits to the purchase. Even if her spouse incurred the debt, Applicant was only an authorized user on the account. Her legal liability for the debt was also not established. AG ¶ 20(e), "the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue," apply to SOR 1.a and 1.b.

The outstanding collection balance in SOR 1.c, \$18,569 as of May 2012, raises two security concerns under Guideline F: AG ¶ 19(a), "inability or unwillingness to satisfy debts," and AG ¶ 19(c), "a history of not meeting financial obligations." Applicant is financially liable for the charges incurred in her name absent a successful legal challenge, which has not been shown. Moreover, she bears some responsibility for the debt. Applicant may not have known that her spouse had used the credit card account in SOR 1.c, but she knew that her spouse had a history of wiping out her checking account and running up credit charges in the past. They took out a home equity loan to repay credit card debt. She relied on his promises that he would not again abuse her credit and failed to take action to protect herself from his unauthorized access to her accounts.

Concerning potential mitigation of the debt in SOR 1.c, AG ¶ 20(a), "the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment," cannot reasonably apply. Concerns about Applicant's financial judgment arise, even though her spouse incurred the debt. She had a responsibility to monitor her personal credit, and to keep her credit cards safe from potentially unauthorized use. Applicant's spouse apparently kept from her that he was abusing the credit card account in SOR 1.c. Since she was working full time and had a lengthy commute, she may not have known about accounts opened fraudulently. Yet, he apparently "stole" one credit card (#3108) from her purse. Applicant should have noticed that it was missing, whether or not the debt she personally incurred on the account had been satisfied.

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<sup>5</sup>Applicant's credit reports show that the bank that had issued the Visa account listed on her e-QIP (#3108) had charged off and transferred a debt in June 2007. The account number for the transferred debt is not listed, and it reportedly has a zero balance. There is no clear link between that account and the creditor in SOR 1.a.



AG ¶ 20(b), “the conditions that resulted in the financial problem were largely beyond the person’s control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation), and the individual acted responsibly under the circumstances,” is implicated in part. I accept that Applicant’s spouse incurred the credit charges at issue without her authorization. However, AG ¶ 20(b) does not mitigate Applicant’s poor judgment in failing to take timely steps to preclude her spouse from abusing her credit. Applicant and her spouse refinanced their mortgage and also took out a home equity loan for the funds to pay off the debt incurred by him. Some 15 years ago, after Applicant’s spouse had wiped out their checking account and had begun forging her signature to open new credit card accounts in her name, Applicant’s sister advised her to check her credit, obtain her own post office box, and open a separate checking account. While such steps might not have guaranteed against Applicant’s spouse spending excessively or abusing her credit, it would have made opening new accounts more difficult for him. Instead, Applicant relied on her spouse’s promise that he would change his behavior. Some trust is reasonable and necessary in a spousal relationship, but Applicant had reason to question her spouse’s ability to abide by his promise, given his diagnosed bipolar disorder and history of serious overspending, gambling, and credit abuse. Especially given her lengthy commute and long work hours, it was incumbent on Applicant to make the changes necessary to protect her credit, and she failed to do so with negative consequences to her credit. As recently as December 2011, Applicant’s spouse incurred about \$2,000 in charges on one of her credit card accounts without her knowledge. (Tr. 67.)

As of her hearing, Applicant had made no payments on the debt in SOR 1.c, despite her spouse’s admission that he had incurred the charges. She did not respond to a settlement offer of January 2012, because she could not afford the lump sum payment. In early July 2012, after the collection agency rejected her counteroffer, Applicant drafted a dispute letter in which she objected to the \$8,000 settlement as too high. These steps to address the debt are insufficient to fully establish AG ¶ 20(c), “the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control,” although Applicant’s post-hearing acquisition of a post office box is a significant step in preventing a recurrence of her spouse opening new credit card accounts in her name without her knowledge.

Concerning mitigating condition AG ¶ 20(d), “the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts,” the DOHA Appeal Board has previously explained what constitutes a “good faith” effort to repay overdue creditors or otherwise resolve debts:

In order to qualify for application of [the “good faith” mitigating condition], an applicant must present evidence showing either a good-faith effort to repay overdue creditors or some other good-faith action aimed at resolving the applicant’s debts. The Directive does not define the term ‘good-faith.’ However, the Board has indicated that the concept of good-faith ‘requires a showing that a person acts in a way that shows reasonableness, prudence, honesty, and adherence to duty or obligation.’

(internal citation and footnote omitted) ISCR Case No. 02-30304 at 3 (App. Bd. Apr. 20, 2004) (quoting ISCR Case No. 99-9020 at 5-6 (App. Bd. June 4, 2001)). Applicant has not made any payments on the collection debt, and she has no payment plan currently in place. She acted very belatedly in asking for proof of her contractual obligation, given that her spouse has not always been forthcoming with her about the extent of his financial irresponsibility. Applicant intends to take out a loan from her 401(k) or use her remaining equity in her home to settle the debts she is legally obligated to repay. Applicant is now aware, if she was not before, that her security clearance is at risk because of outstanding collection debt. Applicant is likely to continue working on resolving the debt, but it would be premature to give full mitigating weight to AG ¶ 20(c) or AG ¶ 20(d).

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge must consider the totality of an applicant's conduct and all relevant circumstances in light of the nine adjudicative process factors in AG ¶ 2(a).<sup>6</sup> Applicant has had over 30 consumer credit accounts opened in her name over the years. It is unclear how many of those accounts were opened or used by Applicant's spouse without her knowledge or authorization. Her latest credit report shows outstanding revolving credit card debt under \$10,000, which is being paid on time. Around \$2,000 of that debt was incurred by her spouse without her authorization in December 2011. Under AG ¶ 2(a)(2), "the circumstances surrounding the conduct, to include knowledgeable participation," it is significant to note that Applicant did not incur the delinquent debt herself, or authorize her spouse to incur the debt in her name. At the same time, Applicant contributed to the credit abuse (AG ¶ 2(a)(5), "the extent to which participation is voluntary"). She was emotionally unable or unwilling to hold her spouse responsible because of his diagnosed mental illness. She relied on promises from her spouse that he would stop his behavior, and she chose to deal with the consequences of his credit card abuse rather than take proactive measures to prevent it from reoccurring. Their mortgage was late 30 days several times, as she and her spouse took on more debt in refinancing their loan for the funds needed to pay credit card balances.

Regarding evidence of rehabilitation and other permanent behavioral changes (AG ¶ 2(a)(6)), Applicant's spouse has a diagnosed mental illness that is being treated, and not always successfully, by counseling alone. Applicant's frustration at dealing with her spouse is evident ("My husband is telling me he has nothing to do with it and that –I just, because of his sickness; I can't keep anything in the house, so I have changed. I don't keep credit cards in the house. I don't keep checks in the house, I can't trust him, I'm sorry to say, so,

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<sup>6</sup> The factors under AG ¶ 2(a) are as follows:

- (1) the nature, extent, and seriousness of the conduct;
- (2) the circumstances surrounding the conduct, to include knowledgeable participation;
- (3) the frequency and recency of the conduct;
- (4) the individual's age and maturity at the time of the conduct;
- (5) the extent to which participation is voluntary;
- (6) the presence or absence of rehabilitation and other permanent behavioral changes;
- (7) the motivation for the conduct;
- (8) the potential for pressure, coercion, exploitation, or duress;
- and (9) the likelihood of continuation or recurrence.

like I said, I just need help.”). (See Tr. 99.) She appears to have little faith in her spouse’s ability to control his spending, and there is no prognosis from her spouse’s psychologist which could alleviate concerns in that regard. The risk of recurrence of her spouse’s financial irresponsibility (AG ¶ 2(a)(9), “the likelihood of continuation or recurrence”) cannot be ruled out.

Yet, albeit prompted by the potential loss of her clearance eligibility, Applicant has made changes that should deter, if not stop, her spouse from abusing her credit in the future, such as having her mail sent to a post office box. She does not keep her checks or credit cards at home where her spouse can gain access to them. She intends to have the credit bureaus monitor her accounts for any unauthorized activity.

Also, Applicant is willing to make payments on the collection debt incurred by her spouse in her name, if she can arrange affordable terms. Her financial situation causes some concern. While she has worked a second job since September 2004, she relies on the income from her part-time job to make her \$555 monthly payments on around \$68,799 in student loan debt for her daughter’s college education. About two years ago, she was rejected for a loan by her bank. While she suspects it was because her spouse ruined her credit, she had a number of open credit accounts with balances that could have influenced the decision. She was able to open a new auto loan in August 2011, and to cosign on a separate auto loan for her son. She has made her \$407 monthly car payments on time. However, with only \$100 in monthly discretionary income, she is not likely to resolve the delinquent debt on her record in the near future unless the creditor is willing to accept a small fraction of the balance, or if she borrows the money.

Under the Directive, Applicant is not required to satisfy all her debts before she can be granted a security clearance. She has 33 years of service with the defense contractor. There is no evidence that she has violated security regulations, to include during the 15 or so years that she has been dealing with her spouse’s abuse of her credit. Provided she has a stable income, I am persuaded she can be counted on to resolve the delinquent debt in a lawful manner, as she has done with other accounts in the past when she learned about them. She obtained a home equity loan to repay debt incurred by her spouse several years ago. That loan has been satisfied. When she discovered that her spouse had charged around \$2,000 on her account without her authorization in December 2011, she consolidated the debt so that she could make one affordable payment. Applicant now understands, if she did not before her hearing, that her failure to resolve the past-due debt in her name could cost her the job that she needs to support her family and pay her bills. Upon considering the case in the context of the whole person, I conclude Applicant has mitigated the security concerns.

### **Formal Findings**

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:           FOR APPLICANT

Subparagraph 1.a: For Applicant  
Subparagraph 1.b: For Applicant  
Subparagraph 1.c: For Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

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Elizabeth M. Matchinski  
Administrative Judge